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**From:**

**Sent:** Thu 9/11/2008 10:21 AM

**To:**

**Cc:**

**Subject:** RE: TEFRA Advisors

If a Form 1065 has only one Schedule k-1 showing only one partner, this may not constitute a "partnership return" invoking section 6233. Since, by definition under section 761, a "partnership" constitutes more than one person, a return showing only one owner may not constitute a "partnership" return even though it is labeled as such. In other words, the contents of the return rather than the label may control.

My understanding, however, is that the return in this case in fact had two Schedules K-1, one for a DE owned by the other partner. Section 6233 would seem to apply in that circumstance since the contents of the return show two partners. Under Rev. Rule 2004-88, the reporting of a DE as a partner makes TEFRA apply. See also I.R.C 6231(g).